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Industrial Democracy in the UK: Precursors to the Bullock Report

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Abstract

Many of the debates in the British labour movement on how to ensure and implement »industrial democracy« through worker representatives on company boards reached their peak in 1977, when the Report of the Committee of Inquiry on Industrial Democracy (»the Bullock Report«) recommended the appointment of worker representatives to the boards of companies for which they work. No consensus could be found on the Report's implementation and the political and industrial turbulence that followed in the late 1970s and throughout the 1980s resulted in the abandonment of the recommendations. However, debates over how much »say« workers should have in the running of their employers' business and what form this »voice« should take have not subsided. This article uses the Bullock Report as an entry point to reconsider the feasibility of worker representation on company boards in the UK from a labour law perspective. In doing so, the article compares the Bullock Report with debates which took place between the two World Wars – an intellectually rich but often neglected period when the British trade union movement was at a critical point in its development. By using insights from labour law history and comparative law, the article reveals the points at which historical factors led to certain choices. An awareness of these historical factors and choices facilitates a reassessment of traditional narratives.

Keywords: Industrial Democracy, worker representation, collective bargaining, UK, trade unions

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Rebecca Zahn

Industrial Democracy in the UK: Precursors to the Bullock Report

I. Introduction

Industrial democracy is an elusive idea in the UK. It has served as an umbrella term for different ways of extending political democracy to the workplace in order to minimise the economic exploitation of workers and limit employers' arbitrary decision-making.[1] Many of the debates in the labour movement on how to ensure and implement industrial democracy through worker representatives on company boards reached their peak during two periods of the twentieth century: between the two World Wars and in the 1970s.[2] The Report of the Committee of Inquiry on Industrial Democracy (»the Bullock Report«) – the last serious attempt by the state to introduce »industrial democracy« – generated considerable controversy when it was published in 1977. It was generally accepted that the Report's recommendations – to appoint worker representatives to the boards of directors of companies for which they work – would result in a fundamental change to Britain's industrial landscape. No consensus could be found on the Report's implementation, and the political and industrial turbulence that followed in the late 1970s and throughout the 1980s resulted in the abandonment of the recommendations. Even though debates over how much »say« workers should have in the running of their employers' business and what form this »voice« should take have not subsided, the UK remains without statutory provision for board-level representation of workers.[3]

This article uses the Bullock Report as an entry point to reconsider the feasibility of worker representation on company boards in the UK from a labour law perspective. It does so by comparing the Report with debates which took place between the two World Wars – an intellectually rich but often neglected period when the British trade union movement was at a critical point in its development. Insights from labour law history and comparative law reveal the points at which historical factors led to certain choices. An awareness of these historical factors and choices facilitates a reassessment of traditional narratives. This text is based on a presentation given at the annual conference of the »Initiative Arbeitsrechtsgeschichte«, an initiative of the Hugo Sinzheimer Institute and the Max Planck Institute for Legal History and Legal Theory, on the topic *Geschichte der Betriebsverfassung* (*History of the Works Constitution*) on 18 June 2021.

The article proceeds as follows. Section II situates the topic within British labour law history and explains the author's methodology. Section III provides an overview of the literature on British industrial democracy, including the findings of the Bullock Report. Section IV explores the debates taking place within the trade union movement in-between the two World Wars. A final section concludes the article.

II. Methodology

Labour law history in the UK lives at the margins and intersections of a number of different fields – including labour history, legal history, labour law, and industrial relations. Despite the rich scholarly output that exists on British labour law history,[4] few contemporary academic labour lawyers would identify as labour law historians.[5] Labour law history emerged, along with labour history, in the late nineteenth and early twentieth centuries among scholars interested in the »labour

1 Clegg (1951).

2 There were also debates taking place during this time about the feasibility and necessity of a statute-based system of workplace worker representation below the board-level. While these debates raise a number of interesting questions about the meaning of industrial democracy, space precludes a detailed discussion of the topic. See further for an overview, for example, Dukes (2008).

3 Recent (non-statutory) developments include the introduction of provision 5 into the UK Corporate Governance Code (2018) which sets out methods for engagement with the workforce, including the possibility of a director appointed from the workforce.

4 For an overview see Zahn (2020).

5 See generally Tucker (2017).

question« which was centred on the role of workers' collective action. Early labour law histories traced the legal regulation of trade unions. Labour law history has thus traditionally been situated within an industrial relations rather than a legal history framework. Labour law historians analyse the history of labour law in relation to wider social forces and are receptive to socio-legal methods – going beyond doctrinal legal sources.[6]

The question of whether and how to draw on other disciplines in order to undertake a comparison also permeates comparative law. Recent scholarship has sought to move away from what Pierre Legrand described as »positivist« comparative law, towards the contextualised analysis of legal rules, their active interpretation, and engagement with interdisciplinary study.[7] As part of this trend, scholars have applied different methodological lenses in order to give a voice to individuals and social groups whose views are not part of mainstream narratives.[8] In an article published in 2015, Sherally Munshi borrowed from comparative literature to propose the idea of a minor comparativism.[9] A minor comparativism retains the general tenor of comparative law, which is »to reveal something about our immediate world that would not reveal itself but through the practice of adopting a foreign perspective«, but it seeks that foreign perspective »within« one's own country.[10] It »sets the official image of a particular state *against* the reflections of its minority subjects«.[11] A minor comparativism acknowledges that the minority – to be understood in the sense of foreign or not belonging to the majority – is not peripheral but central to the formation of laws, the state, and the nation. A consequence of this is that a minor comparativism resists regurgitating authorised representations of the law. While traditional approaches to comparative law tend to identify and isolate particular rules or institutions across legal systems, a minor comparativism seeks to disrupt received understandings of the law and its development. For labour lawyers, the use of such an approach opens up traditional narratives to reinterpretation. As Munshi explains:

> »The purpose of such investigation is not merely ethnographic or to thicken our account of a culture, but liberatory. By recognizing that authoritative declarations of law do not exhaust our own understanding or experience of law, we proliferate opportunities to transform the laws that give shape and meaning to our shared circumstances.«[12]

The question arises as to who, in the eyes of labour law scholars, is »the minority«. Different possibilities arise. For the purposes of this article, the focus is on discovering the historical factors which have shaped contemporary labour law. As a first step, this necessitates recognising that this shape depends on the outcome of power struggles. As Bob Hepple explains, the development of labour law »is the product of a variety of historical factors, which are neither ›necessary‹ nor ›natural‹ […]. The choices made were not inevitable solutions to the social problems created by the workings of the market.«[13] According to Hepple, the demands were unsuccessful because, »they were unacceptable to those with greater economic and political power […]. [T]he powerfulness of the opponents of reform was the decisive factor in the making of labour law.«[14] The views of the individuals or groups who lost out in the power struggles – social reformers and labour movements who were unsuccessful – have been erased from the legal record and, by extension, are the subject of study of legal or labour historians but are often neglected by comparative law and labour law scholars. Yet their demands held sway at particular moments in history even if they were not translated into law in the end – the outcome of power struggles was neither inevitable nor predetermined. Rediscovering their viewpoints disrupts and reframes received understandings of the historical development of labour law. Such an exer-

6 For an overview see Zahn (2020).
7 See generally Legrand (2017); as well as the other contributions in the 2017 special issue of the American Journal of Comparative Law.
8 For an overview, see the *Decolonial Comparative Law* project led by Professor Dr Ralf Michaels and Dr Lena Salaymeh at the Max Planck Institute for Comparative and International Private Law (Hamburg), available at https://www.mpipriv.de/decolonial.
9 Munshi (2015) 665.
10 Munshi (2015) 664.
11 Munshi (2015) 665.
12 Munshi (2015).
13 Hepple (1986) 4.
14 Hepple (1986) 5.

cise requires scholars to engage seriously with the discourse of minorities and to set it against the traditional narrative. This, in turn, enables scholars to identify, question, and challenge conventional assumptions about the legal system by rendering those conventional assumptions foreign to themselves.

Such an approach has not hitherto been applied to labour law. It allows scholars to consider the possibilities of what could have been, to think about law in a different framework to the norm, and to develop alternative approaches to legal regulation. Accordingly, in the next sections I will explore the topic of board-level representation of workers by first explaining the traditional narrative on industrial democracy leading to the Bullock Report and then rediscovering the debates which took place within the trade union movement in the 1920s and 1930s. In a final section I compare these debates in order to draw some initial conclusions.

III. Industrial Democracy and the Bullock Report

Writing in 1897, Beatrice and Sidney Webb observed that the organisation of workmen within trade unions amounted to the formation of a spontaneous democracy within a state.[15] The object of such trade unionism was the deliberate regulation of the conditions of employment in such a way as to protect workers from the evil effects of industrial competition from workers. In order to do this effectively and without threatening the democratic state, trade unions would operate within a framework of industrial democracy, to be understood in a two-fold manner: first, it had an internal dimension that referred to trade-union democracy,[16] and, second, it had an external dimension, which the Webbs understood as effective collective bargaining.[17] They considered collective bargaining as a pure instrument of trade union action, without giving thought to the regulatory interest that it might have for employers. »[F]or the Webbs, collective bargaining was exactly what the words imply: a collective equivalent and alternative to individual bargaining«,[18] the primary aim of which was to reduce potentially disastrous competition among workers. Although the Webbs later included an element of worker representation in management in their understanding of industrial democracy,[19] this was merged with the idea of public ownership. Thus, the socialisation of ownership would also socialise economic participation and complement collective bargaining.

Worker interests – and by extension industrial democracy – would thus primarily be protected by independent trade unions engaging in collective bargaining. This so-called single-channel model became the defining feature of the industrial pluralist model of worker representation, particularly following World War II, which was informed by the idea of equality of bargaining power and an acceptance of a conflictual relationship between employers and trade unions.[20] Writing in 1959, Otto Kahn-Freund, the »founding father« of British labour law and one-time student of the German socio-legal labour law scholar Hugo Sinzheimer,[21] described this state of affairs as *collective laissez-faire*. He defined this to mean »allowing free play to the collective forces of society, and to limit the intervention of the law to those marginal areas in which the disparity of these forces – those of organised labour and management – is so great as to prevent the successful operation of the negotiating machinery«. He went on to say that the main characteristic of the British trade union movement was its »aversion to legislative intervention, its disinclination to rely on legal sanctions, its almost passionate belief in the autonomy of industrial forces«.[22] Within this system of *collective laissez-faire*, collective bargaining in the second half of the twentieth century became a political institution, given its two fundamental features as norm-producing and as involving power relations among organisations. Modern collective bargaining – that of the age of full industrial development – was therefore primarily a process of joint regulation in which the trade unions performed twofold action, »as power or pressure groups certainly but also, together with employers, as private legislators«.[23] The latter was based on the observation that »the effects of [the trade union's] action extend beyond the securing

15 Webb/Webb (1897).
16 Webb/Webb (1897) part 1.
17 Webb/Webb (1897) part 2.
18 Flanders (1968) 3.
19 Webb/Webb (1920) 760.
20 See further Dukes (2008).
21 See generally Dukes (2009).
22 Kahn-Freund (1959) 224.
23 Flanders (1968) 12.

of material gains to the establishment *of rights* in industry; the right to a defined rate of wages, the right not to have to work longer than a certain number of hours, the right to be paid for holidays, and so on«.[24] As such, collective bargaining was seen to promote the »›rule of law‹ in employment relationships«,[25] albeit within a channel of conflict.

As a consequence, workers' representation in management or their involvement in controlling industry could not serve as a fundamental underpinning in post-war understandings of industrial democracy. Trade unions could only represent the industrial interests of workers, and participation in management was »unacceptable« as it threatened trade-union independence.[26] In 1968, the Donovan Commission asserted that »collective bargaining is the most effective means of giving workers the right to representation in decisions affecting their working lives«.[27]

Yet as the post-war economic boom slowed, successive UK governments began to advocate industrial rationalisation, which in turn »creat[ed] a need to extend the sphere of workers' influence«.[28] By the late 1960s, mainstream union figures, in particular Jack Jones of the Transport and General Workers' Union (TGWU), were arguing that »Industrial Democracy is a natural extension of trade unionism«.[29] Jones's assessment of trade union power and influence in the UK was that unions were very strong on the »low ground«, at workplace and plant levels, through a strong shop steward movement and collective bargaining, and on the »high ground« through their involvement in economic and industrial planning. However, they were weak on the »middle ground«, at company/corporate level, where company policy and strategy were formulated. For Jones, worker representatives on company boards would be in a position to rectify this gap and would enable workers to make a meaningful contribution and consent to their employer's decision-making.[30] The Trades Union Congress (TUC) and its affiliates largely backed Jones, although there remained a fear that having worker representatives on boards could weaken collective bargaining and undermine trade unions. Left-wing intellectuals and academics remained sceptical of the fit between worker representation on boards, at least when imposed through legislation, and collective laissez-faire.[31]

At a political level, both the Labour and Conservative parties proposed plans for worker participation in company decision-making in the early 1970s. The Labour Party's manifesto of February 1974 promised to introduce »an Industrial Democracy Act […] to increase the control of industry by the people […] [and to] take steps to make the management of existing nationalised industries more responsible to the workers in the industry«.[32] Simultaneously, the TUC had proposed legislation to achieve 50/50 worker representation on company and nationalised industry boards. Yet despite all the enthusiasm for »industrial democracy«, the concept remained elusive. As a union leader pointed out, there were »probably as many meanings for each term [used] as there are people who use it«.[33]

Labour was elected as a minority government in February 1974 and obtained a small majority in the October 1974 election. The government was under pressure to respond to the demands for industrial democracy, and in early 1975 a bill introduced by a backbench MP proposing 50% worker representation on nationalised industry boards as well as the introduction of parity supervisory boards forced the government to set up a Committee of Inquiry to further consider the issue.[34]

The Committee – chaired by Lord Bullock and therefore also known as the Bullock Committee – was set up by the Department of Trade in December 1975. The Committee was directed to consider only one aspect of industrial democracy, namely the representation of employees on the boards of companies for which they work.

Over the course of a year, the Committee gathered a wide range of written evidence from stakeholders and commissioned two papers on the

24 Flanders (1968) 12.
25 Flanders (1968) 12.
26 Clegg (1960) 22.
27 Report (1968) 27.
28 Williamson (2016).
29 Jones at the 1968 TUC Congress, quoted in Williamson (2016) 123.
30 Williamson (2016) 129 quoting an interview with George Bain, 14 March 2015.
31 Williamson (2016) 129.
32 Labour Party (1974).
33 Roberts (1973) 22.
34 Report (1977).

»European experience« of having workers represented on boards of directors. The majority report (the Bullock Report), which was signed by all members except the three industrialists on the Committee and delivered in January 1977, proposed that all boards of directors of companies with more than 2,000 employees should be reconstituted to be composed of three elements – an equal number of employee and shareholder representatives plus a third group comprising an uneven number of additional directors (but less than a third of the overall board). The employee representatives were expected to *represent* the workforce rather than act as delegates of their trade union; meaning that they should be »free to express [their] opinions and to reach [their] own conclusions about which policies will work for the greater good of the company, not as a delegate, told how to vote by [their] constituents«.[35] The rationale for this so-called 2x+y approach – as opposed to parity representation between workers and shareholders – was that it would bring special expertise and experience into the boardroom and accommodate broader public interest concerns. The proposed rules for worker representation on boards were to be implemented where a union made a request for representation and that request was endorsed by a majority of the whole (unionised and non-unionised) workforce voting in a secret ballot. The Bullock Report did not support universally mandatory legislation. It stressed that it did not want to undermine the unions' representative capacity and that it considered collective bargaining as the most effective means of giving workers a voice in decision-making both within the company and within wider society. In its recommendations, the Bullock Report can be seen to strive for a balance between avoiding the transformation of the single-channel model – that is, accepting that collective bargaining should remain the primary means of workplace representation – and recognising the need for some representation of the workforce at company level. This tension between trade unions as a channel of conflict and trade unions as partners remained unresolved both in the Bullock Report and subsequently.

The Bullock Report generated considerable controversy and received a mixed reception from all sides of the political and intellectual spectrum.[36] The Confederation of British Industry did not approve of it, with many Conservative activists holding the view that trade unionists »did not […] understand the legal implications of being a director«.[37] The TUC endorsed the Bullock Report, with Jones reporting that »the General Council [of the TUC] had had three representatives on the Bullock Committee and […] the majority report would be seen largely to conform to Congress policy«.[38] Other voices on the Left, including in the trade union movement and amongst labour law scholars, were more muted, focusing specifically on the threat of board-level representation to collective bargaining.[39] The 2x+y formula (as opposed to parity representation) also drew criticism as »virtually [guaranteeing] the hostility of a majority of board members to labour interests at key times in all cases«.[40] Clive Jenkins of the Association of Scientific, Technical and Managerial Staffs (ASTMS) opposed the recommendations of the Report and argued instead for the extension of collective bargaining as the most effective way of securing worker interests in the workplace.[41]

Kahn-Freund, too, criticised the Bullock Report, observing that board-level employee representation was »an idea originally alien to the trade union movement«.[42] Although recognising that the Bullock Committee's remit precluded it from considering the issue, Kahn-Freund questioned whether the purpose of the Committee's purpose could not have been »equally well or better attained by an expansion of collective negotiations«.[43] He was sceptical whether board-level employee representation as proposed by Bullock would be effective as long as there was a legal duty for the board to take decisions »in the company's overall best interest«, with the expectation being that »a company's best interest« would align with that of the shareholders. This would expose em-

35 Report (1977) chapter 8, para 40.
36 For an overview see Williamson (2016).
37 Agenda (1977). On the resistance of employers to the proposals see Phillips (2011).
38 TUC (1977).
39 See Coates / Topham (1977) from 113 onwards.
40 Coates / Topham (1977) 115.
41 ASTMS (1977).
42 Kahn-Freund (1977) 71.
43 Kahn-Freund (1977) 75.

ployee representatives on a board to »a conflict of duties which is simply insoluble«.[44] Other scholars disagreed, suggesting that the phrase »the company's best interests« was a shorthand for »the interests of both employees and shareholders, i. e. ›the company‹ is to be defined as embracing the interests of both of these groups«.[45] This argument rested on the assumption that a company may have legitimate goals which go beyond profit maximisation, thereby allowing directors to take different interests into account in determining a company's *overall* best interests. As to the compatibility of collective bargaining with board-level worker representation, Davies and Wedderburn suggested that:

> »Collective bargaining is one form of joint regulation. The extent to which participation in the institutions of the enterprise causes workers to integrate themselves into that enterprise, depends upon the concrete terms of their participation. […] Account must be taken of the nature of the participation proposed – and above all of its relationship to the independent trade unions that constitute the labour movement and represent workers' interests in that country. The proposals of the T.U.C. in 1974 [which went beyond the Bullock Report's proposals] implied a self-confidence on the part of British unions that, *so long as* the conditions of the participation were acceptable, new forms of joint regulation could be entertained.«[46]

There were some subsequent experiments in appointing worker-directors in the public sector, notably at British Steel and in the Post Office.[47] The verdict on these experiments was not, however, very positive and they were quickly abandoned. No consensus could be found within the government, who by the time the Bullock Report had been delivered had lost their parliamentary majority, as to how to implement the Report more widely and it was ultimately shelved.

Overall, statutory provision for worker representation on management boards was not only anathema to Conservatives and employers but also to many on the Left, including trade unions whose strength in many sectors was at its peak during this period and who preferred to maintain the status quo.[48] The single-channel model, which assumed that collective laissez-faire was the most effective means of regulating work relationships, complicated the reconciliation of worker representation on management boards with collective bargaining. Without a fundamental shift in thinking, including an acceptance of a more overt role for the state in regulating industrial relations,[49] it was difficult to see how to alleviate the tension between trade unions playing a conflictual role through collective bargaining and then becoming partners / aligning interests with employers for the purposes of board-level representation in order to take company-wide strategic decisions. Although the landscape of British industrial relations has changed significantly since the 1970s, contemporary debates over worker representation on company boards continue to be tainted by these tensions. By using a minor comparativism, the next section focuses on an earlier period, before the single-channel model became the dominant narrative describing industrial relations, to explore some of the rich intellectual debates that took place during the inter-war years, particularly after the 1926 General Strike, which had led some unions and their leaders to explore alternative ways of industrial cooperation and participation. Setting the Bullock Report against this earlier period reveals alternative starting points for worker representation on company boards by focussing on the views of a »minority«.

IV. The Inter-War Years

Starting from Hepple's observation that »the powerfulness of the opponents of reform was the decisive factor in the making of labour law«,[50] this section looks in more detail at the demands made by a number of British trade unionists who (unsuccessfully) advocated worker participation in

44 Kahn-Freund (1977) 77. Kahn-Freund also criticised the absence of a suitable sub-structure below board level which could support board-level representation. Davies and Wedderburn in Davies / Wedderburn (1977) offered a response to this. This line of argumentation is beyond the scope of this paper and is therefore not dealt with in more detail.

45 Davies / Wedderburn (1977) 198.

46 Davies / Wedderburn (1977) 203.

47 Williamson (2016) 137.

48 Crouch (1986) 107–109.

49 Although Ewing argues in Ewing (1998) that the state has always played a greater – albeit indirect – role in collective laissez-faire than has generally been recognised.

50 Hepple (1986) 5.

workplace decision-making throughout the 1920s and 1930s. Although they constituted a minority in the sense of a minor comparativism because their views did not become part of the dominant narrative, these trade unionists made an important contribution to a rich intellectual debate at a time when the British trade union movement was reassessing its purpose in the wake of the General Strike. These trade unionists were influenced by various ideas on ownership and management of industry circulating in between the two World Wars. For example, thinkers like GDH Cole, Harold Laski and RH Tawney initiated a radical-utopian variety of British pluralism which sought to gradually devolve functions from central government and managerial authority down to workers' control within the firm. This was also referred to as guild socialism – a British version of syndicalism (although unlike syndicalism, guild socialism was not opposed to the continued existence of a political state).[51] A grass-roots campaign in the form of the Shop Stewards Movement, originating in the Glasgow shipbuilding industries, advocated the nationalisation of industry with equal participation of workers in management. Some of these debates spilt over into trade unions. The General Strike of 1926, in particular, appears to have had a formidable influence on some trade union leaders such as Walter Citrine, the general secretary of the TUC from 1925–1946, in showing the limits of union power when not directed at a revolutionary challenge. The failure of the General Strike and the fraught relationship with the Labour Party during that period led Citrine to view politics as a complementary but by no means primary sphere in which to pursue trade union aims. He recognised that the conflictual model of industrial relations must be replaced by one that made more extensive use »of the machinery for joint consultation and negotiation between employers and employed«.[52] Citrine's formative years had been heavily influenced by the Independent Labour Party, and there is evidence of syndicalist influences until at least 1921 although later, after the General Strike, he advocated a »New Union« approach which proposed industrial cooperation. This approach was supported by Ernest Bevin, the powerful general secretary of the TGWU at the time. Its implementation was attempted by both during the »Mond-Turner« talks in 1928–1929 between the industrialist Alfred Mond and 21 other employers and the TUC, represented by its president Ben Turner, which explored possibilities for substituting joint consultation and co-operation for conflict in British industry.[53]

The issue of worker representation on the boards of nationalised industry – and how this may be implemented in practice – preoccupied the TUC's Research and Economic Department during this time.[54] Until 1932, the TUC's standing orders had called for »the General Council [to] endeavour to establish … public ownership and control of natural resources and of services with proper provision for the adequate participation of the workers in the control and management of public services and industries«.[55] An Industrial Workers' Charter adopted at the 1924 Congress had advocated proper provision to be made for worker representation through trade unions on nationalised industry management boards. The TUC's Research and Economic department was established and operated under the leadership of Walter Milne-Bailey until his death in 1935. Milne-Bailey had been strongly influenced by guild socialism and favoured democratic corporatist government of industry. He, along with the general secretary of the TUC at the time – Walter Citrine – foresaw a new role for trade unions, moving away from confrontational industrial action towards a more wide-ranging and constructive corporatist approach.[56] In 1931, the TUC's Economic Committee began to draft a report on »Public Control and Regulation of Industry and Trade« which considered the question of labour representation on the boards of nationalised industries.[57]

That draft TUC report ended up in similar terms to that espoused by the Labour Party who were also, at the same time, preparing reports on the socialisation of several industries. The Labour Party's discussions on worker participation in man-

51 For a general overview see Pribićević (1959) and also Ackers / Reid (eds.) (2016).

52 The words of George Hicks, president of the Trades Union Congress in 1927, quoted in Clegg (1976) 130.

53 For an overview see Mcdonald / Gospel (1973).

54 See Barry (1965) 320–322.

55 See, for example, TUC (1932b) 450.

56 Ackers / Reid (2016) 10–11.

57 TUC (1932a).

agement had been dominated by Herbert Morrison, the post-war deputy to Prime Minister Clement Attlee. Morrison strongly advocated the public corporation, where members of the board were appointed by the relevant minister from among suitably qualified individuals. He refused any claims for direct representation, stating:

> »I was not convinced that the statutory right of the representation of labour in the industry would necessarily provide the best man from the ranks of labour; it would involve a difficult and embarrassing business of selection from the names submitted by the various Trades Unions in the industry; and if I conceded the statutory right of representation to labour in the industry, I should … inevitably be involved in almost irresistible demands for the right of representation from other elements of interests.«[58]

This view was not undisputed amongst left wing intellectuals. For example, 18 prominent unionists and socialists in 1932 provided a memorandum to the TUC Economic Committee and the Labour Party Executive on »Workers Control and Self-Government in Industry«, which took public ownership as its starting point and advocated for equal representation of trade unions on a nationalised industry's governing board.[59] The pamphlet recognised that this kind of reshaping would require »large changes in the structure and workings of Trade Unionism« as well as appropriate training for worker representatives if they were to play an effective role.[60] This memorandum was not, however, taken into consideration by the TUC or the Labour Party.

Both the TUC and the Labour Party Executive presented their reports on public control of industry in 1932 to Congress and Conference respectively, where both were confronted with severe criticism. To avoid defeat at the TUC Congress, it was agreed that a draft of the report would be circulated widely for comments to affiliated unions and to friendly unions in other countries.[61]

The tenor of the responses and the criticisms were to the effect that workers should have direct representation on boards of management of publicly owned industries. TGWU general secretary Ernest Bevin insisted that socialised boards should include a *statutory* right to worker representation chosen by the unions concerned.[62] Bevin described Morrison's proposal of the public corporation as »positively the worst form of public control«.[63] He argued that »Labour is [not] an interest occupying a like position with a group of other interests. [Labour] occupies a special position and should be so dealt with«.[64] For the TGWU, this implied that workers should have »effective representation […] through their Trade Unions on any controlling board. […] We claim the right to be where policy is determined.«[65]

In arguing in favour of statutory worker representation on management boards, Bevin was supported not only by the TGWU but also by the Miners' Federation of Great Britain, the Associated Society of Locomotive Engineers and Firemen and the National Union of General and Municipal Workers (NUGMW).[66] In a questionnaire circulated on the draft report in 1932 amongst TUC affiliates, 18 out of 27 unions with a combined membership of just under 2 million workers opposed the report; only 9 unions with a membership of 160,000 were in favour.[67] A range of amendments were suggested to the section of the report on trade union representation on management boards, and there were calls for the final report to be delayed until a broader discussion on the meaning and purpose of industrial democracy could be had. Although the opinions on the purpose of industrial democracy differed, overall, there was a general agreement within the trade union movement that the public corporation proposed by Morrison did not guarantee socialisation and that the public corporation did not adequately provide for worker control inside individual undertakings. There was recognition that state ownership in a capitalist system is worth little unless accompanied by effective trade union participation in direction and management at all levels. The question of control should therefore be distinct from that of ownership. Adequate provision should be made for parity or even majority worker representation both on industry-wide governing boards and within individual enterprises regardless of the owner-

58 Morrison (1933) 191.
59 Cole/Mellor (eds.) (1933).
60 Cole/Mellor (eds.) (1933) 4.
61 TUC (1933) 256.
62 Bullock (1960) 459.
63 Note circulated to members of the Committee dated 21 December 1931. See Bullock (1960) 510.
64 Letter (1933).
65 Ibid.
66 See further Zahn (2015).
67 TUC (1933).

ship structures. This would guarantee giving workers a voice, endow them with responsibility, and also in some sectors reduce antagonism between employers and employees.[68]

However, in spite of the opposition to the report, joint TUC-Labour Party committees in early 1933 worked out a compromise statement which recognised:

> »Organised labour claims for Trade Unions in the industry the right to nominate persons for appointment to such a Board [of Management and Control]. This claim of organised labour that it shall have its place in the control and direction of publicly owned industries is accepted. It is agreed that in order to give effect to this object there shall be consultation between the responsible Minister and the Trade Unions concerned.«[69]

A resolution brought by the NUGMW and passed at the 1934 TUC Congress called on the TUC Economic Committee to reconsider its position. It demanded that:

> »[W]age earners of all grades and occupations have a right, which ought to be acknowledged by law, to an effective share in the control and direction of the industries which their labour sustains. […] [T]his right should be exercised by adequate representation on the Central Board of Management.«[70]

The resolution also did not just refer to socialised industries but claimed a statutory right of 50% representation for trade unions on boards of management, managerial committees, and in industries in the capitalist system.

The resolution was never, however, acted upon; the reference to private industry ignored; and international issues dominated the discussions after 1934. The TUC General Council did not debate the opposing ideological views on labour participation and instead used delaying tactics to avoid the issue. The question of participation was not taken up again until 1944 in post-war planning, and at that time, references to the earlier debate on participation in management were largely deleted or ignored. Morrison's public corporation became the dominant approach of the post-war Labour government when it pursued large scale nationalisation (incidentally, Morrison became the Minister for Nationalisation in that government).

V. Conclusion

What then is the usefulness of this minor comparativism, of comparing the Bullock Report to earlier debates on worker representation on company boards? First, the debates which took place within the TUC in the 1920s and 1930s foresaw many of the challenges the Bullock Report would encounter. The biggest among those was how to reconcile collective bargaining as a conflictual method with worker representation as necessarily based on cooperation and partnership. The 1931 TUC Report and the subsequent arguments from different trade unions advocating board-level representation had the foresight to distinguish between management and control, and to recognise that worker representation was another form of joint regulation, one that served a different purpose to that of collective bargaining. In particular, it was seen as having the potential to involve workers in strategic decision-making, thereby giving them both greater control over and responsibility for decisions affecting the workplace. There was also recognition that within an enterprise, employees have a special status which is not comparable to that of other interest groups, and which justifies at least parity representation on boards where important decisions are taken. Finally, the TUC Report acknowledged that, in order to be effective, there had to be a statutory mechanism to mandate representation.

More generally, the minor comparativism applied in this article shines a light on the earlier debates on industrial democracy, which constitute an important – albeit under-researched – period of British labour law history. It reopens common assumptions that worker representation on company boards »is an idea originally alien to the trade

68 TUC (1933).
69 Labour Party (1933).
70 TUC (1934).

union movement«,[71] thereby complicating our understanding of how labour law developed and providing different starting points for a debate within the field of labour law as to the future shape and feasibility of board-level worker representation. Looking at the rich and under-researched debate within the trade union movement on this topic throughout the 1920s and early 1930s, a time when unions had suffered from a decline in strength and were reassessing their purpose and mode of operation following the General Strike allows scholars to consider different ideas of trade union power, how and where this should be exercised. It also enables an exploration of different perspectives on the role of co-operation and joint regulation in industrial relations. There are thus some potentially useful starting points for contemporary debates on the future of British trade unions. Overall, the debates of the inter-war years, especially compared with the Bullock Report, which has been extensively discussed in the literature, provide fertile intellectual ground for labour law scholars interested in considering different starting points to develop a contemporary model for worker participation – one grounded in labour law.

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